

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): SPARER et al.)	Group Art Unit:	1618
)		
Serial No.: 10/640,853)	Examiner:	James W. Rogers
Confirmation No.: 9178)		
)		
Filed: August 13, 2003)		
)		
For: ACTIVE AGENT DELIVERY SYSTEMS, MEDICAL DEVICES, AND METHODS			

COMMUNICATION RE: NOTICE OF IMPROPER REQUEST FOR
CONTINUED EXAMINATION (RCE)

Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the "Notice of Improper Request for Continued Examination," Applicants respectfully note that it appears that this Notice was sent in error. A Supplemental Information Disclosure Statement and 1449 form were submitted with the Request for Continued Examination on November 25, 2009. Additionally, an Amendment and Response, Supplemental Information Disclosure Statement and 1449 form were subsequently filed on December 1, 2009. Finally, according to PAIR these documents were received by the U.S. Patent and Trademark Office and the status is listed as "Docketed New Case - Ready for Examination."

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Page 2 of 2

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The application should now be in condition for examination. Please direct any inquiries to the undersigned attorney.

CERTIFICATE UNDER 37 C.F.R. 1.8:

The undersigned hereby certifies that this paper is being transmitted via the U.S. Patent and Trademark Office electronic filing system in accordance with 37 CFR §1.6(a)(4) to the Patent and Trademark Office addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 16th day of December, 2009.

By: Ann M. Mueting

Name: Ann M. Mueting

December 16, 2009
Date

Respectfully submitted

By

Mueting, Raasch & Gebhardt, P.A.

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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/640,853	08/13/2003	Randall V. Sparer	P-10998.00	9178

26813 7590 12/09/2009
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MINNEAPOLIS, MN 55458-1336

EXAMINER

ROGERS, JAMES WILLIAM

ART UNIT	PAPER NUMBER
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1618

MAIL DATE	DELIVERY MODE
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12/09/2009

PAPER



1/25/10 FR 5mo. v dnm

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

RECEIVED

DEC 14 2009

MUETING AND RAASCH

NOTICE OF IMPROPER REQUEST FOR CONTINUED EXAMINATION (RCE)	Application No. 10/640,853	Applicant(s) SPARER ET AL.	
		Art Unit 1600	Date Mailed:

The request for continued examination (RCE) under 37 CFR 1.114 filed on 30 November, 2009 is improper for reason(s) indicated below:

1. ☐ Continued examination under 37 CFR 1.114 does not apply to an application for a design patent. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d). An RCE cannot be treated as a CPA.
2. ☐ Continued examination under 37 CFR 1.114 does not apply to an application that was filed before June 8, 1995. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b).
3. ☐ Continued examination under 37 CFR 1.114 does not apply to an application unless prosecution in the application is closed. If the RCE was accompanied by a reply to a non-final Office action, the reply will be entered and considered under 37 CFR 1.111. If the RCE was not accompanied by a reply, the time period set forth in the last Office action continues to run from the mailing date of that action.
4. ☐ The request was not filed before payment of the issue fee, and no petition under 37 CFR 1.313 was granted. If this application has not yet issued as a patent, applicant may wish to consider filing either a petition under 37 CFR 1.313 to withdraw this application from issue, or a continuing application under 37 CFR 1.53(b).
5. ☐ The request was not filed before abandonment of the application. The application was abandoned, or proceedings terminated on _____. Applicant may wish to consider filing a petition under 37 CFR 1.137 to revive this abandoned application.
6. ☐ The request was not accompanied by the fee set forth in 37 CFR 1.17(e) as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.
7. ☒ The request was not accompanied by a submission as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.

Note: A continued prosecution application (CPA) under 37 CFR 1.53(d) cannot be filed in a utility or plant application. A CPA filed in a utility or plant application that has a filing date **on or after June 8, 1995** will be treated as an RCE under 37 CFR 1.114. The request for a CPA in the instant application, however, has been treated as an improper RCE for the reason(s) indicated above.

A copy of this Notice MUST be returned with the reply.

Direct any questions concerning this notice to

/HENRIETTA DENDY/, Technology Center 1600

Telephone Number: (571)272-0517